5HRI SURESH PACHOURI: Sir, I roduce the Bill.

»4ANCIAL RELIEF TO OLD PERSONS AND WIDOWS BULL, 1989

SHRI SURESH PACHOURI (Madhya idesh): Sir, I beg to move for leave to roduce a Bill to provide for the finan-1 relief to old persons and the needy lows and for matters connected there-h.

The question was put and the motion r *adopted.*

iHRI SURESH PACHOURI: Sir, I oduce the Bill.

NSTITUTION (AMENDMENT) BILL, 1989 (TO AMEND ARTICLE 340)

राम नरेश यादव (उत्तर प्रदेश) :मान्यवर, मैं पकी अनुमति से प्रस्ताव करता हूं कि भारत के धान का और संशोधन करने वाले विधेयक को स्थापित करने की अनुमति दी जाए।

The question was put and the motion is adopted.

श्री राम नरेश यादव : मान्यवर, मैं विधेयक को थापित करता हूं।

, CONSTITUTION (AMENDMENT) ., 1988 (SUBSTITUTION OF NEW 1CLE FOR ARTICLE 263) *(Contd.)*

IRI B. SATYANARAYAN RED- (Andhra Pradesh): Mr. Vice-Chair-Sir, last time while supporting this titution Amendment Bill, 1988, sd by my learned friend, Shri M. S. padaswamy, I was speaking on this md while expressing my views, I was g this House that no one in this xy wants that India should be ened. All political parties, all per-irrespective of their political views a strong, united and prosperous country, a prosperous India There are no two opinions about it and I was also expressing my views that if we want to see this country strong, united and prosperous, then every part of the country, every region of the country should be strong. No part of the country, no region of the country should be weakened. If any region of the country is weakened, naturally, India will be weakened. That is our point of view and that is true. I was also quoting as to what is meant by the Union. The Union and its territories are there in part I of the Constitution. It has been stated there, "India, that is Bharat, shall be a Union of States." This is very clear. India is a Union of States. If any State is weakened, naturally India will be weakened. That is why the issue of giving^ more powers to the States is being discussed in this country for the last fifteen to twenty years. The powers assigned to the State should not be usurped by the Centre, by the Union. But during these several years, our experience is, the powers that are with the States are being robbed by the Union. The trouble started like that and every State, whether it is ruled by the Congress party or by a non-Congress party, is demanding more powers, financial, political, etc. There is a fear among most of the States that unnecessarily the Union Government or the Central Government, whichever party may be in power at the Centre, is trying to usurp the powers relating to the States. As a matter of fact. The Government at the Centre or the Union Government is not following strictly the Constitutional provisions. It is going beyond the Constitution and it is attacking or taking away the powers of the States. So there is a cry, there is a demand by the States and the people of the States that the States should be given complete guarantee and right to see that no rights belonging to the States are curtailed. That is the crux of the problem. If this is assured, if this is clarified, if this is clearly understood between the Union Government and the States, I do not think there will be any dispute, any confrontation between the States and the

Union, whichever party may be in power at the Centre and whichever party may be in power in the States. Both the Governments will run smoothly. They will not be in trouble. Our country will prosper and go ahead. That is the idea behind it. By demanding more powers to States, no party or individual wants that India should be weakened. That is a wrong conception. Some of my learned friends, especially Shri Ram Chandra Vikalji, spoke with that conception in mind. Shri Ram Chandra Vika'jilehe is not here nowion that day, while he was speaking on the Bill, was telling us:

प्रान्तीय और क्षेत्रीय तत्वों को बढ़ाया जा रहा है। उन्होंने यह शब्द इस्तेमाल किए। मैं राम चन्द्र विषल जी को नम्रतापूर्वक कहना चाहता हूं, सरकार को भी, मंत्री महोदय को भी और आपको भी ...(व्यवधान)...

THE VICE-CHAIRMAN (SHRI JAGESH DESAI) : Through me.

श्री बी० सत्यनारायण रेड्डी : आपके जरिए, आपके माध्यम से कि कोई राजनीतिक पार्टी, कोई व्यक्ति इस देश में प्रान्तीय तत्वों को, क्षेत्रीय भावनाओं को नहीं बढ़ाना चाहता मुल्क को नुकसान करके। हर पार्टी, चाहे प्रान्तीय, क्षेत्रीय, जिलास्तरीय या ग्रामस्तरीय पार्टी क्यों न हो, हर पार्टी इस देश की एकता को, अखण्डता को, देश की उन्नति के लिए, देश को ताकतवर बनाने के लिए ही सोचती है। यह कहना गलत है कि ये राजनीतिक पार्टियां, हों या प्रान्तीय पार्टिया हों, वह देश को कमजोर कर रही हैं। यह सही नहीं है, यह मैं साफ कर देना चाहता हूं और क्योंकि राम चन्द्र विकल जी नहीं हैं, उन्होंने ज्यादा जो इसी पर दिया था। ...(व्यवधान)..

श्री सत्य प्रकाश मालवीय : (उत्तर प्रदेश) : कार्रवाई पढ़ लेंगे। ...(व्यवधान)...

श्री बी० सत्यनारायण रेड्डी: मैं इसीलिए कह रहा हूं ताकि उनको साफ हो जाए कि इस देश में कोई भी ऐसा नहीं है जो हिन्दुस्तान को या भारत को कमजोर करना चाहता है। हम यही चाहते हैं कि भारत खुशहाल रहे, तातकवर रहे और भारत की एकता बनी रहे, यही हमारी आशा है। श्रीमान्, गुरुपदस्वामी जी ने जो बिल पेश किया है यह बहुत ही महत्वपूर्ण है इस माने में कि कंस्टीट्यूशन में इस तरह का प्रोविजन है, इसके बावजूद भारत के राष्ट्रपति ने कभी भी इसको लागू करने की पहल नहीं की क्योंकि जब तक केन्द्र और राज्यों से संबंध ठीक नहीं होते जब तक ये अपने अपने अधिकारों को छीनने की कोशिश नहीं करेंगे तक तक रिश्ते अच्छे ही बने रहेंगे और उन रिश्तों को कायम रखने के लिए केन्द्र और राज्यों में संबंध ठीक बनाएं रखने के लिए इंटरस्टेट काउंसिल की जरूरत है। लेकिन राष्ट्रपति ने इस आर्टिकल में जो प्रावधान किया है उसको उन्होंने इस्तेमाल नहीं किया इसलिए गुरुपदस्वामी जी ने यह जरूरी समझा कि इसमें संशोधन हो। इसलिए उन्होंने यह संशोधन रखा है।

Under this Constitution Amendment Bill Mr. Gurupadaswamy wants a new Article 263 should be put in place of the existing Article which says :

> "If at any time it appears to the President that the public interest would be served by the establishment of a Council charged with the duty of—
>
> (a) inquiring into and advising upon disputes which may have arisen between States;
>
> (b) investigating and discussing subjects in which some or all of the States, or the Union and one or more of the States, have a common interest; or
>
> (c) making recommendations upon any such subject and, in particular, recommendations for the better co-ordination of policy and action with respect to that subject,
>
> it shall be lawful for the Presideni by order to establish such a Council, and to define the nature of the duties to be performed by it and its organisation and procedure."

Under the above existing provision there is an option for the Presideni whether or not to have 'an Inter-Stau Council. But Shri Gurupadaswamy in hi: amendment wants that the President mus have this Council. So his amendment *it* very simple. Shri Gurupadaswamy in hi: amendment says, • 263 (1)

> "The President by order shall es tablish an Inter-State Counci charged with the duty of ...."

He says that it must be the duty of thi President to have an Inter-State Council This is very important. He wants Thi

[Shri B. Satyanarayan Reddy] amendment by way of a guarantee that the President shall have an Inter-State Council to sort out disputes between the States or between the States and the Centre. We have seen that in matters of finance, appointment of Governors and in other matters there is a lot of confusion and there are disputes between the Centre and the States. Every State wants more financial help from the Centre.

The States have to carry out gigantic works like the irrigation projects, hydroelectric projects and other such important projects. But they have no funds, they do not have enough money, for these projects. Yet, at the same time, the States have to depend on the Centre to get the clearance for these projects. Almost all the States, whether it is Andhra Pradesh or Karnataka...

SHRI CHITTA BASU (West Bengal) :Or West Bengal.

SHRI B. SATYANARAYAN REDDY: ... Or West Bengal or Tamil Nadu or Assam or Gujarat or Maharashtra, all these States have forwarded certain proposals to the Centre for clearance. But these projects are pending for a long time without any rhyme or reason and sometimes they are delayed even on minor technical grounds, which can be sorted out in one day or even in one hour. One Department is blaming another and it goes on like this. The C.W.C, blames the Environment Department and the Finance Department blames the Water Resources Department and so on. If there is a will to do something, I do not think that there will be any delay in granting the clearance. These are some of the problems which the States are facing.

In the same way, so far as the question of the appointment of Governors is concerned, the Constitution also provides, and the Sarkaria Commission also says that with the consent of the State Chief Ministers the Governors should be appointed. But, in practice, we have seen that the Governors are usually appointed without consulting the Chief Minister and there too, they appoint party people. The Governor shoulde be impartial and he should be a man who does not belong to any party or the ruling party or the party that is at the Centre. But they are neither following the Constitutional provisions nor they are following the suggestions or recommendations made by the Sarkaria Commission. These are the issues which should be seriously thought over. Of Course, if the same party is there at the Centre and also in the States, then the issues can be settled within the party as it had happened in the past, .as we all know. But in a democracy, we cannot say that everytime the same* party will be the ruling party in the States and at the Centre. In West Bengal, the CPI (M) is in power; in Assam, the AGP is in power; in Andhra Pradesh, the Telugu Desam Party is ruling; in Karnataka, the Janata Dal is in power; in Kerala, the CPI (M)iled Left Front is there.

SHRI SATYA PRAKASH MALAVIYA: Why do you forget Haryana?

SHRI B. SATYANARAYAN REDDY: Yes, I am coming to that. In Haryana, the Janata Dal is in power; and, at the Centre, the Congress (I) is in power. In certain other States, the Congress (I) is in power. Naturally, the Congress (I) cannot decide the various issues if the disputes are between the Centre and the non-Congress (I) ruled States; it cannot decide. So, there should be an agency where these things can be discussed freely and discussed for the benefit of the country, foT the benefit of the States and for the benefit of the people at large. So, this is one of the methods by which these problems can be splved.

I wholeheartedly support the amendment brought forward by my colleague, Shri M. S. Gurupadaswamy. I know that the Minister understands all these things and I also know that he also wants that

the country should be strong and prosperous and united. He is also of the opinion that unless and until the States are strong, the Centre cannot be strong. The arguments raised in the Statement of Objects and Reasons by the Mover of this Bill, Shri Gurupadaswamy, are very clear.

I won't read it out because it has already been read. In view of the importance of the issues that are involved, I request the hon. Minister and the Government to accept this Bill introduced by Shri M. S. Gurupadaswamy. If he wants to make any minor changes in it, he can do so. But the spirit of this Bill is very important. The Law Minister must assure this Hosue that the spirit behind this Bill will be carried out. If he wants, he can whole-heartedly pass this Bill. If he wants to bring another Bill, then he can bring another Bill having the spirit of this Bill and pass it. This is my appeal. With these words I conclude.

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): 24th of March is a holiday. If the House is interested to know the stand of the Government on the Bill in this session, then I request the Members to be brief. Otherwise, it can be carried forward to the next session.

श्री सत्य प्रकाश मालवीय :श्री गुरुपदस्वामी जी के बिल को सरकार मान लेने की घोषणा कर दे तो यहीं पर यह खत्म हो जाती है।

उपसभाध्यक्ष (श्री जगेश देसाई) : अगर आप इसी सेशन में गवर्नमेंट का स्टेंड जानना चाहते हैं तो इसलिए मैंने यह बात कही है।

श्री सत्य प्रकाश मालवीय : माननीय उपसभाध्यक्ष जी, श्री गुरुपदस्वामी जी ने जो संविधान संशोधन के संबंध में विधेयक प्रस्तुत किया है उसका मैं पूर्ण समर्थन करता हूं। हमारा संविधान 1950 में लागू हुआ था और संविधान के अनुच्छेद 263 में इस बात की व्यवस्था है कि यदि राष्ट्रपति चाहें तो अन्तर-राज्यीय कौंसिल का गठन कर सकते हैं। लेकिन 40 वर्ष बीत गये, चूंकि उसका गठन नहीं किया गया है और इन 40 वर्षों में जिस प्रकार से राज्यों के अधिकारों का हनन हुआ है और जिस प्रकार से बहुत से मामलों में केन्द्र ने संविधान की धाराओं को उल्लंघन किया है, इसलिए यह संविधान संशोधन विधेयक लाया गया है। संविधान में इस बात की व्यवस्था थी ही और हमारे संविधान निर्माताओं ने भी इस बात की व्यवस्था की थी कि राष्ट्रपति चाहे तो इस प्रकार की जो इंटर स्टेट कौंसिल है उसका गठन कर सकते हैं। हमारे संविधान का जो अनुच्छेद 263 है उसमें और श्री गुरुपदस्वामी जी का जो संशोधन विधेयक है उसमें कोई फर्क नहीं है। वे करीब-करीब एक ही हैं। दो बातों को छोड़कर श्री गुरुपदस्वामी जी के विधेयक में उल्लेख किया गया है। उनके विधेयक में और संविधान में अन्तर केवल इतना है कि अभी राष्ट्रपति ज़ी और भारत सरकार के विविक पर इसको छोड़ा गया है, लेकिन गुरुपदस्वामी जी के विधेयक में इसको आवश्यक कर दिया गया है, मेनडेटरी कर दिया गया है। आपके विधेयक में यह कहा गया है—

> "263 (1) The President by order shall establish an Inter-State Council charged with the duty of..."

करीब-करीब यही बातें संविधान के अनुच्छेद 263 में कही गई हैं। इस संबंध में सरकारिया आयोग भी बैठाया गया था। उसने भी अपनी संस्तुति दी है। हमारे संविधान में जैसा कि श्री सत्य नारायण रेड्डी जी ने कहा है — इंडिया देट इज़ भारत इज़ दी यूनियन आफ स्टेट्स् यानी जो विभिन्न राज्य हैं, भारत उनका संघ है। हमारे संविधान के अनुसार हमारे देश मैं एक केन्द्रीय सरकार होगी और दूसरी ओर राज्यों की सरकारें होंगी और दूसरे कुछ स्थान हैं जिनको केन्द्र शासित स्थान कहते हैं, सेन्ट्रली एडमिनिस्टर्ड एरियाज। इन सब को मिलाकर भारत राज्य का गठन हुआ है। उसमें जो अलग-अलग विषय हैं उनकी तीन प्रकार की सूची है। एक तो केन्द्रीय सूची है और केन्द्रीय सूची के अन्तर्गत 57 विषय हैं और जो राज्यों की सूची है उसमें 67 विषय हैं और जो अनुवर्ती सूची है उसमें 47 विषय हैं। इस प्रकार से जो केन्द्रीय सूची है उसके बारे में कानून बनाने के अधिकार राज्य सरकारों नहीं हैं और जो 67 विषय हैं उनके संबंध में कानून बनाने का अधिकार केन्द्रीय सरकार को नहीं नहीं है। कन्करेन्ट लिस्ट में जो 47 विषय हैं उनके बारे में कानून बनाने का अधिकार केन्द्रीय सरकार को प्राप्त है और साथ-साथ हमारी जो राज्य सरकारें हैं उनकों भी उनके बारे में कानून बनाने का अधिकार प्राप्त है। लेकिन इस संबंध में सरकारिया आयोग ने भी, मान्यवर, इस बात की चर्चा की है कि राज्यों के जो अधिकार हैं उनका बराबर हनन हुआ है, उनके अधिकारों में कटौती की गई है। सरकारिया आयोग ने यहां तक कहा है कि :

3 P.M.

[श्री सत्य प्रकाश मालवीय]

"The Commission has, however, pointed out that the Centre has been usurping the States' prerogatives, poaching on their sphere, and violating the letter and spirit of the Constitution by expanding the Concurrent List at the expense of the State List or subjects. The Commission has cited simple notifications, for example, on industry to prove how surely and gradually the Centre has taken oveT more than 81 per cent industry while the States were autonomous in the initial years of the Constitution's operation."

और इसलिये आज आवश्यकता इस बात की है और सरकारिया कमीशन ने जो अपनी संस्तुति की है, बहुत ही विद्वतापूर्ण ढंग से सरकारिया कमीशन ने कहा है कि पहले 1952 में सेंट्रल कौंसिल आफ हेल्थ बनी। उसके बाद 1954 में सेंट्रल कौंसिल आफ लोकल सेल्फ गवर्नमेंट बनी और उसके बाद चार क्षेत्रीय कौंसिलें बनीं। एक उत्तर क्षेत्र की, दूसरी पूर्वी क्षेत्र की, तीसरी पश्चिमी क्षेत्र की और चौथी दक्षिणी क्षेत्र की 1968 में बनी लेकिन ये बहुत प्रभावी नहीं थी और इसलिये अब यह आशा हो गई है और जैसा कि 1969 में एडमिनिस्ट्रेटिव रिफार्म कमीशन ने संस्तुति की थी, इंटर गवर्नमेंटल कौंसिल बनाई जानी चाहिये। सरकारिया कमीशन ने जब इसकी संस्तुति की है तो इसको, मान्यवर लागू किया जाना चाहिये। आज ही, मान्यवर, केरल विधान सभा का सत्र प्रारम्भ हुआ और वहां की राज्यपाल श्रीमती राम दुलारी सिन्हा ने खुद अपने भाषण में जो कहा है उसको मैं यहां उद्धृत करना चाहता हूं। उन्होंने कहा कि :

"Centre's attitude is violative of the principle of co-operative federalism."

तो हमारे देश की अखंडता और एकता तभी कायम रहेगी. . **(व्यवधान)**

केरल विधान सभा में वहां की राज्यपाल श्रीमती राम दुलारी सिन्हा का उद्घाटन भाषण है क्योंकि आज वहां बजटसत्र प्रारम्भ हुआ। उसमें उन्होंने कहा कि :

"Centre's attitude is violative of the principle of co-operative federalism."

तो मैं इस ओर ध्यान आकर्षित कर रहा था कि हमारे देश में राष्ट्रीय एकता और अखंडता के सभी समर्थक हैं। जितने भी राजनैतिक दल हैं सब इसके समर्थक हैं और जितने भी इस देश के वासी हैं हम यह मानकर चलते हैं, कुछ अपवाद हो सकते हैं, लेकिन सब चाहते हैं कि इस देश की एकता और अखंडता कायम रहे। इसीलिये हमारे संविधान निर्माताओं ने इस बात की व्यवस्था की कि केन्द्र से राज्यों के संबंध अच्छे रहें, एक राज्य के दूसरे राज्य से अच्छे संबंध रहें। लेकिन जिस तरह से संविधान की धाराओं को नजरंदाज किया गया है इससे स्थिति बिगड़ने लगी है। गत वर्ष ही त्रिपुरा मे चुनाव हो रहे थे। उस समय जब कि मतदाताओं को वोट डालना था उसके तीन दिन पहले त्रिपुरा को डिस्टर्ब एरिया घोषित करके केन्द्र सरकार ने वहां मिलेट्री भेज दी और अचरज का विषय यह है कि इस बारे में वहां के मुख्य मंत्री से परामर्श नहीं किया गया। केन्द्र सरकार को इस प्रकार का काम नहीं करना चाहिए जिससे राज्य सरकार और केन्द्र सरकार के संबंध खराब हों। बहुत सी बातों की चर्चा करते हुए सरकारिया कमीशन ने इस बात की संस्तुति की है कि राज्यपालों की नियुक्ति में भी केन्द्र सरकार के साथ राज्य सरकार के संबंध बिगड़ते हैं। अभी मैंने पिछले ही सप्ताह समाचार पत्रों में पढ़ा कि पश्चिम बंगाल के मुख्य मंत्री ज्योति बसु ने कहा कि जब राज्यपाल नुरुल हसन को वहां से बदला गया और जिन सज्जन को वहां राज्यपाल बनाकर भेजा गया उसके बारे में गृह मंत्री ने उनको केवल टेलीफोन पर सूचना भेज दी कि फलां राज्यपाल महोदय आपके राज्य में आ रहे हैं। हमारे मुल्क में यह परम्परा रही है कि इस बारे में मुख्य मंत्री के साथ परामर्श किया जाता था। स्वर्गीय पं० जवाहरलाल नेहरू परामर्श करते थे। परामर्श का मतलब यह नहीं है कि अवश्य ही मुख्य मंत्री की बात को माना जाये। लेकिन कम से कम परामर्श तो करना ही चाहिये। लेकिन आज मुख्य मंत्रियों को सिर्फ समाचारपत्रों के माध्यम से जानकारी होती है कि उनके राज्य में फलां महोदय राज्यपाल होकर आ रहे हैं। महोदय, 1952 में पहली बार आम चुनाव हुए और केन्द्र और सभी राज्यों में कांग्रेस पार्टी की सरकार बनी। मद्रास में दलबदल करके सरकार बदली। लेकिन और जगह कांग्रेस पार्टी की सरकार चलती रही। लेकिन जो हमारा संघीय ढांचा है उसके अनुसार केन्द्र में किसी पार्टी की सरकार हो सकती है और राज्यों में किसी और पार्टी की सरकार हो सकती है। ऐसी स्थिति भी आ सकती है कि हमारे देश में जितने भी राज्य हैं उनमें अधिकांश राज्यों में ऐसी पार्टी की सरकार हो सकती है जो उस पार्टी की विरोधी पार्टी हो, जिस पार्टी की केन्द्र में सरकार है। तो उस में इस प्रकार की व्यवस्था की गई थी। 1959 में पहली बार जब नम्बूदरीपाद की विधिवत चुनी हुई सरकार गिराई गई वहां के राज्यपाल द्वारा और यह उस समय की बात है जब श्रीमती इन्दिरा गांधी इस दश की कांग्रेस पार्टी की अध्यक्ष थीं और जवाहरलाल नेहरू इस देश के प्रधानमंत्री थे। तब से राज्यपाल का जो पद है विवाद का

विषय हो गया है। अभी बिहार में क्या हुआ है? बिहार में जो सज्जन राज्यपाल थे वह कांग्रेस पार्टी के ही थे। मुख्य मन्त्री रह चुके थे लेकिन वहां के राज्यपाल बन कर गये और छोटी छोटी बातों के विवाद को ले कर वहां के जो कांग्रेस पार्टी के मुख्य मन्त्री और पूर्व राज्यपाल में विवाद हुआ। इसका कारण क्या है? इसका कारण यह है कि राज्यपाल की नियुक्ति करने के पहले अगर केन्द्र चाहता है कि केन्द्र और राज्यों के सम्बन्ध सुदृढ़ हों, आपस में विवाद अधिक न हों मैं यह आवश्यक समझता हूं कि जिस प्रकार से निर्देशक सिद्धान्तों की गाइडलाइंस की सरकारिया आयोग ने चर्चा की है उनके अनुसार राज्यपालों की नियुक्ति की जानी चाहिये। इसी प्रकार से संविधान के अनुच्छेद 356 के अनुसार राज्य सरकारों को बर्खास्त किया जा सकता है। पिछले दो सालों में किस प्रकार से सरकारें बर्खास्त की गई हैं इस के सम्बन्ध में भी सरकार को विचार करना चाहिये। इसलिए मैं समझता हूं कि सरकारिया आयोग ने जो अपनी सिफारिश की है इस सिलसिले में कि इंटर स्टेट काऊंसिल की स्थापना की जानी चाहिये यह बहुत आवश्यक है। एक चीज़ की ओर मैं आपका ध्यान आकर्षित करना चाहता हूं। इस में इस बात की चर्चा है कि एक जनरल बाडी होगी, एक स्टेंडिंग कमेटी होगी और उसके साथ साथ एक स्थायी वहां का सचिवालय होगा। इसको इंटर गवर्नमेंटल या इंटर स्टेट काऊंसिल जो भी आप कहिये उसमें अध्यक्ष जनरल बाडी के प्रधानमन्त्री जी होंगे। जितने मुख्य मन्त्री हैं वह भी होंगे और गुरुपदस्वामी जी ने जो संशोधन विधेयक प्रस्तुत किया है इसके उद्देश्य और कारणों में भी इस बात की चर्चा की गई है कि सात सात मुख्यमन्त्रियों में जो बैठक हुई दिल्ली में उस में भी हमारी सरकार से अनुरोध किया गया कि सरकारिया आयोग की सिफारिशों को मानना चाहिये। कल या परसों शायद लोकसभा में सरकारिया आयोग की सिफारिशों पर बहस होने जा रही है। इस सदन में कदाचित हो चुकी है । मैं ज़रूर चाहता हूं कानून मन्त्री जी इसी सदन में उपस्थित हैं जब सरकारिया कमीशन ने अपनी राय जाहिर कर दी है और संविधान निर्माताओं की यह इच्छा थी, मंशा थी तो संविधान निर्माताओं की मंशा को देखते हुए और सरकारिया आयोग की सिफारिशों को देखते हुए तथा गुरुपदस्वामी जी का जो विधेयक है इसकी भावनाओं का आदर करते हुए हमारी सरकार को इस सुझाव को स्वीकार कर लेना चाहिये। इन शब्दों के साथ मैं श्री गुरुपदस्वामी जी ने जो संशोधन विधेयक प्रस्तुत किया है उसका ज़ोरदार समर्थन करता हूं इस आशा और विश्वास के साथ कि आज ही कानून मन्त्री जी घोषणा करेंगे कि इस बात का सरकार ने निर्णय ले लिया है और भविष्य में इंटरस्टेट काऊंसिल की नियुक्ति तो की ही जाएगी और संविधान में इस प्रकार का संशोधन भी किया जाएगा। कल ही प्रधानमन्त्री से स्वतन्त्रता सेनानी मिलने गये। उनकी पेंशन जो पहले 500 रुपये थी उसको बढ़ा कर के 750 रुपये कर दिया गया है। उनके प्रतिनिधि-मण्डल के सामने प्रधान मन्त्री जी ने स्पष्ट घोषणा की कि जो पंचायतों के सिलसिले में देश में विचार-विमर्श चल रहा है उसके बारे में उन्होंने कहा कि इस सत्र में या अगले सत्र में पंचायतों के संबंध में कानून लाएंगे, विधेयक लाएंगे। इसी प्रकार से कानून मन्त्री जी से मेरा नम्रतापूर्वक आग्रह है कि वे आज ही घोषणा कर दें और उसके बाद इस सत्र में या अगले सत्र में इस संबंध में संशोधन विधेयक ले आवें। धन्यवाद।

SHRI CHITTA BASU: Sir, I rise to support the Bill of Shri Gurupadaswamy subject to certain amendments from my side. Of course, I have not formally moved the amendments, but I propose that there should be some amendments to the Bill itself. I will come to that later on.

Sir, the demand for setting up inter-State Council under article 263 has already become a national issue and it has been agitating the minds of the people of the entire country since long. As a matter of fact, before the Sarkaria Commission was appointed, there was a conclave of all the opposition parties—almost all the national opposition parties in this country—which met at Srinagar and adopted a declaration. In that declaration it has been clearly stated—embodying the entire spirit of Mr. Gurupadaswamy*s Bill—and I quote: "Under article 263, the President can establish an Inter-State Council. It must be made manadatory for the President to constitute such an Inter-State Council consisting of the Prime Minister and the Chief Ministers of all States. The Council will deal with all disputes between the States and the Union and with any other matter of national importance " It was in the year

[Shri Chiita Basu]

1983. Before the Sarkaria Commission was appointed, this position was taken by the opposition parties as a whole. Generally I would say a complaint is made that when we demand greater devolution of powers—administrative and financial—to the States, it will lead, according to some of our friends sitting there, to the weakening of the unity of the country. My submission with all humility is that it is not at all the purpose of any opposition party in this country. The opposition party wants that Constitutional provisions for true federalism are properly respected and adhered to, because it has "been our experience during 'the last four decades that whatever limited principle of federalism has been incorporated in the Constitution, it has been constantly eroded and power is being concentrated in the hands of the Union. Therefore, simply concentration of power in the hands of the Centre does not strengthen the unity and the Union. I would say, as my friend has already stated, that we want a strong Union and a strong Union can be composed of necessarily the strong States. Therefore, I want to say unequivocally that strong States alone can make the Union strong, and not otherwise. Strengthening of the Union does not make Union strong. As a matter of fact, our experience is, a strong Union, as they conceive, ultimately leads to erosion of the rights of the States and that altogether constitutes a further attack on the unity and integrity of the country.

With these observations from my side, I also want to invite the attention of the hon. Law minister who is a very learned person, to the basic concept of our Constitution. As I have understood ---------- I hope I am not wrong the framework of the Constitution provides for even within the limited scope, interdependence between the Union and the States. I use the word 'interdependence' and this is a very unique phenomenon in our Constitution. Neither the Union can do everything nor the States can do everything. In the discharge of their responsibilities by both the union and the States, there is an element of interdependence is very important in the entire framework of our Constitution.

I will just give a few examples of the Constitutional provisions in respect of this interdependence. Sir, you will agree and I think everybody will agree. What is the princip((c function of a Government? The principal function of a Government is to frame policies and then implement those policies. This is the main purpose, main task, of any Government worth its name. Keeping this thing in view, keeping this important objective, thi» important function, of a Government in view, our Constitution has provided for some built-in mechanism based on interdependence, co-operation, between the Union and the States.

Sir, as you know, the executive powers of the Union and the States are coextensive. They coexist with their legislative powers. I will give an example. Let us take the Concurrent List. It consists of subjects of common interest to both the Union and the States. There is also division of powers between, the Union and the States. We have the List I and List II subjects. Nobody can claim that there has been no overlapping. For example, certain subjects in List I, which falls within the jurisdiction of the Centre, concern the vital interests of the States. The position is same vice-yersa. There are certain subjects in the State List in regard to which the States cannot exercise their power without the cooperation of the Union Government. Therefore, I say that you cannot draw a sharp and pointed line of distinction between the two. The List I and List II subjects are very much necessary for the governance of the country; you cannot exclude the one from the other.

Even in regard to the Central laws, I think everbody will agree that the Central laws are always ------ in almost all cases------ implemented through the machinery of the State Governments or their agencies. We may pass alaw which concerns a subject in List I. But you cannot implement it unless the machinery of the State Government is made available. The Constitution provides for this. You cannot implement your policies unless the State Governments co-operate with you.

Again, for example, article 258. It empowers the Union Government to entrust its functions to the States. The Central Government can entrust to the State Governments the performance of executive functions which are within the realm of the Union. *Vice versa* upder article 258A, the States also can entrust their functions of the Union. The Union as well as the States can entrost the performance of their executive functions to each other.

Of course the Central Government has got overriding power in getting all these policies and laws implemented through articles 256 and 257. You enjoy that power. Of course, I have got different views, but I am not raising that thing now. The whole objective of raising the issue of this constitutional provision is just to show that both the Union and the States coexist. One cannot function in exclusive separation from the other. So inter-dependence is the main thread running throughout the fabric of our constitutional edifice as has been given to us by the Constitution-makers.

Naturally the question of cooperation between the Centre and the States is a very essential part of our executing or implementing the policies of the Government. Having said that, I would like to say that article 263 is not a new concept introduced by our Constitution-makers. As a matter of fact I find that even the British Act of 1935 in section 135 visualised the same kind of mechanism as is envisioned in article 263. In this connection, I want to read out a portion of what the object was of that machanism which was envisaged in the Government of India Act, 1935 — and I quote:

"If departments or institutions of coordination and research are to be maintained at the Centre in such matters as agriculture, forestry, irrigation, education, public health and if such institutions ought to be able to rely on appropriation of their work, the joint interests of the provincial governments in them must be expressed in some regular and recognised machinery of intergovernmental consultation. It was also intented that an Inter-Provincial Council should be set up as soon as the provincial autonomy provisions of the Government of India Act, 1935, came into operation"

The Council was a device for facilitating inter-provincial cooperation. Therefore article 263 is not a novel attempt or a new discovery on the part of the Constitution-makers. This article 263 has been really in the mould of this particular section of the Government of India Act, 1935.

So our Constitution-makers did realise that there should be a machinery which would embody a constant process of reducing tension which might appear between the Union and the constituent States. Earlier, the President did not consider it necessary or desirable in the past to exercise that power which has been entrusted to him under article 263. There are reasons for it. I do not complain against the President, because these issues among the States -------- disputes or anything --------- at that time could have been resolved by the intervention of leaders at the State level and leaders at the Union level.

lt was all the more possible because there was single-party rule in all the

[Shri Chitta Basu] States and at the Union level. That was possible then. After all, there were great personalities. But there are changes in the political map of the country today. ITiere is no Pandit Jawaharlal Nehru today.

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): Political map of the country?

SHRI CHITTA BASU: Map in .the sense of political landscape ---------- I don't say that somebody has gone out and somebody has come in. That is, political configuration. I think it would be better expressed that way. Today I won't use very harsh words. But Pandit Jawaharlal Nehru is not there. It is not the Constitution alone; it is also the hand which exercises the Constitutional powers. Those days are gone. Now the qualities of leadership are loyalty, sycophancy and backbonelessness. Therefore, these are not incorporated in the Constitution. As a result of this, there has been a big shift in the configuration of political forces and social forces in our country. In one word I will say, the era of single-party rule, mono-party rule, is over. It has become a thing of the past. It may remain only in hostorical museums. We have entered into an era of coalition and coalescence. Since we have already entered into an era of political coalescence, naturally, the earlier methods which were used to diminish, decrease or, rather, resolve, the disputes, the tension, between the Union and the States are no longer available today. We will have to forge our constitutional instruments in order to adjust with the changes of the situation. Therefore, article 263 provides a Constitutional instrument in the present situation in our country which can fulfil the purpose.

Now I will only mention, in passing, that though the Sarkaria Commission has recommeded it, it is only in a very limited way. I have got to say something with regard to the recommendation of the Sarkaria Commission, about the scope of the Inter-State Council as recommended by Mr. Sarkaria. Before that, in 1969 the Administrative Reforms Commission recommended a similar institution and said that the Government should go in for an Inter-State Council. I may quote the actual recommendation, if you permit me. It may take a little time and, if you do not agree, then I would say that it is very much there in the recommendations of the Administrative Reforms Commission in its 38th Report. That was made in 1969. Therefore, Mr. Guruapadaswamy's demand is ail the more reinforced not only by the recommendation of' the Sarkaria Commission but also by the earlier recommendation of the Administrative Reforms Commission.

Lastly, I agree with a mandatory establishment—please note "manadatory establishment" — of the Inter-State Council under Article 263. Here I agree entirely with Mr. Gurupadaswamy. But the subject, its scope, the scope of this Council, I want to widen a little further. That widening is necessary because of the present political situation in the country which has given rise to, will be giving rise to, many other irritants between the Union and the States. For peaceful, negotiated, constructive resolution of the already existing, irritants or would-be irritants, there should be wider scope of the functioning of this Council.

I think that this Council should take into its jurisdiction some other subjects also. These subjects should also be included. Number one, it should be obligatory on the President to establish the Inter-State Council on a permanent basis. The Council should have wider role including that of an appellate forum against the" decision of the Union affecting one or more States. It should function as an appellate forum. The Council should be consulted in respect of several other matters such as

appointment of Governors, other constitutional functionaries, imposition of President's rule, application of Article 356 of the Constitution and more.

Therefore, Sir, I feel it is high time that the Government took note of the sentiments of this House. When I say "the sentiments of this House", I mean also the sentiments of democratic people outside the House. The Government should immediately bring forward a Bill and incorporate some of the ideas I have put across with the object of widening the scope of the functioning of the Inter-State Council.

Thank you very much.

SHRI SUBRAMANIAN SWAMY *(*Uttar Pradesh): Mr. Vice-Chairman, first of all, I wish to congratulate Mr. Gurupadaswamy for bringing this Bill and bringing it before the House for discussion.

The reason why I am interested in speaking on this subject is that on this matter of Central-State relations and the various institutions associated with it, there is a great deal of confusion in the country, and certain matters need to be put in proper perspective.

On this Inter-State Council as envisaged in Article 263, I believe, for the first time an articulate case was presented in the Rajamannar Committee Report. The Rajamannar Committee was set up by the D.M.K, when it came to power in 1967, and a voluminous Report was prepared by the Rajafnannar Committee. Therein a very strong case was made for the Inter-State Council.

Subsequently, the Sarkaria Commission also has looked into this question. It has recommended for setting up the Inter-State Council with a whole series of standing committees, in what form they should be and so on.

Nevertheless, after seeing all these, I am still not clear on what this Inter-State Council is and in what fundamental way it would be different from the National Development Council which is functioning already in an erratic manner, except perhaps that it would be regulated under an article of the Constitution. I think that is about all the difference there is between the Inter-State Council and what is already functioning in the form of the National Development Council.

The question, however, is: Is the Inter-State Council going to fundamentally change the Centre-State relations in the country? I have some views which I would like to put on record in this House. The key question in the Centre-State relations is the division of power.

There again there are two dimensions—the political dimension and the economic dimension.

As far as the Indian Constitution is concerned, it was never envisaged as a federal Constitution in the true sense of the word. It is essentially a unitary Constitution with .subsidiary federal principles. If one were to look at the powers the States have in the United States, you will see what a fundamentally different Consitution that is. The United States Consitution is a genuinely federal Constitution. But in India, we cannot have that kind of Constitution, because despite the fact that our nation is an ancient one, we need to develop this to a modern State, for which we have really begun the work since 1947. Hence I am not at all advocating or would not like to advocate in any sense politically federal constitution for the country. There has to be a strong Centre and it should have, under certain emergency and extra-ordinary situations, power to intervene even in the States. Indeed, many of the clauses of our Constitution make it quite clear. Take, for instance, Article 247 of the Constitution. It gives, in fact, Rajya Sabha power to legislate even in those areas which are reserved for the States, in the Constitution. This is a rare Article, which, I have hardly seen in any Constitution of the world. So, indeed I would like to make a*

(Shri Subramanian Swamy] distinction between the political Centre-State relations and the economic Centre-State relations. I would like to say that there should be very minimal distrubance of the present political Centre-State relations that exist today. Well, if we had men of morals in power, some of the excesses would not take place. Whether a State Government has been justifiably dismissed or not, whether the State is behaving properly within the confines of the Constitution or not, those are questions where the quality of men in office determines. No Constitution can improve on that. But, I would like to say in the state of development we are in, there should be no attempt made through any device which actually weakens the power of the Centre to act in the political arena. It is here I should put on record also the arguments recently made on the autonomy of the State of Punjab, whjch is attributed to Mr. Jethmalani and the Bharat Mukti Morcha. I think the matter has been quite clearly explained by Mr. Gurupadaswamy himself, who is *de facto* a member of the Janata Dal; and so is Mr. Jethmalani. I do not want to comment...

THE VICE- CHAIRMAN (SHRI JAGESH DESAI): There is no Janata Dal in this House.

SHRI SUBRAMANIAN SWAMY : When this ghost will come,...

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): That is for them.

SHRI SUBRAMANIAN SWAMY: I will never be in the Janata Dal. I can put it as a parliamentary assurance, if you like. So, I do not want to comment much on the activities of a member of another party, since he has not said it in the House. Therefore, I am not entitled to comment on it at all. But the fact of the matter is that the question of any State getting autonomy is wrong. Whatever has been done at the time of independence — say, for instance, Article 370 of the Indian Constitution was framed at the time of the independence—you cannot disturb it without causing a major upheaval. We should try over a period of time to erode it. But I am not for creating a situation where the political strength of the Centre would be reduced, whether it is done by the device of the Inter-State Council or otherwise. I am a little concerned about the Inter-State Council itself coming to be a kind of super-parliament, where it begins to arrogate itself functions which should really probably belong to the Rajya Sabha in particular, because it is a Council of (States and Parliament in General. Since there have been hardly any discussions as to what the Inter-State Council will do except to discuss matters of common interest, I think, political matters of common interest should be discussed in this House and as far as the other matters are concerned that can be discussed in the NDC. Therefore, I would say that unless a persuasive case is made, I do think as envisaged presently the Inter-State Council is a redundant idea because institution already exist which are, in fact, doing what the Inter-State Council would do if we are not going to allow dilution of the power of the Centre in the political sphere. In the economic sphere I do tldnk there is undue concentration of power in the Centre and in the State Capitals. In fact, the power should go from the Centre to the States and from the States you should also ensure that the power goes to the zillas. I had just been on a visit to Karnataka where I have found the Chairman of Zilla parishad after Zilla Parishad complaining that they are unable to function, and since many of them have now opted to stay in the Janata Party, the Janata Dal Government is not allowing the Zilla Parishad chairmen of the Janata Party to function at all. In fact, there I think the terms of resources, allocations on investment and so on, there should be some transfer of power done. Therefore, I would say that in view of the fact that in this country there are still secessionist movements and although I have been one of the greatest

sympathisers of the Sikhs, I have been associated with the Punjab problem for a long time, I do believe that the Congress policy on Punjab is totally wrong. Despite Left Front-wallahs supporting the Congress on this issue, I have suffered public ridicule in opposing "Operation Bluestar". Despite all that I would say that no sensible person would set into motion anything which would take the country in the direction of "Khalistan" and if there is any talk of autonomy even if your intention is not to create "Khalistan", the forces released would be such that you would not be able to stop it and it would degenerate into a movement Jor "Khalistan". Therefore, at this juncture in, our history there should be no talk on political decentralisation. There should be vigorous activity for economic decentralisation and for that I wonder whether you need Inter-State Council at all. But, nevertheless, having said this, I still would like to congratulate Mr Gurupadaswamy de *facto* leader of the *de facto* Janata Dal for having brought this Bill before the House. Thank you very much.

THE MINISTER OF STATE IN THE MINISTRY OF LAW AND JUSTICE (SHRI HANS RAJ BHARDWAJ): Mr. Vice-Chairman, Sir, at the outset I may be permitted to thank all the hon. Members who have spoken on this Private Member's Bill. I would place on record my deep sense of gratitude for Shri Subramaman Swamy who has awakened some of the Members of the Opposition about what type of autonomy this country can afford. That is where we can learn on national issues. Even if we are on this side or that side we can be one. It is a unique example.

SHRI A.G. KULKARNI (Maharashtra): Intelligent people think alike.

SHRI CHITTA BASU : Wise men think alike. Your voice is his voice.

SHRI SUBRAMANIAN SWAMY : Fools seldom differ.

SHRI HANS RAJ BHARDWAJ : I would like to make two submissions on the speech of one of the senior Members of this House, hon. Shri. Gurupadaswamy because he has very high traditions in Parliamentary life and I hope, he will appreciate my submissions. I would not answer those submissions which relate to the Government of India Act, 1935 and I do not appreciate hon. Member's repeating Britishers and appreciating what they did with India before independence. That is not a very happy story and once we have our Constitution, we must talk about our own Constitution. There is difference between 1935, 194? and 1950 because we have got one of the finest Constitutions and it has been working very well *(Interruptions)...* Sir, nobody should forget anything. One must learn lessons from what has happened and therefore, I started with one thing that if you think in one term that this is one country, whether you come to Parliament or whether you come to the State Legislatures, you get elected through Jhe people of India in one sense or the other. They elect you whether you are elected to Parliament or to the Assemblies and I fully share Dr. Subramanian Swamy's argument, that issues should be debated in the respective Houses because we represent the people of India and the people of India are the sovereign. You must understand this because the sovereign have the power to put you here and put you there. Therefore, we must always remember that the two" considerations which are paramount for everybody in this country, whether he is a Member of the Opposition or whether he is a Member of the ruling party is that ultimately this power, this public office is meant *tq* serve the people of India. There is nothing in the vacuum that you are going to serve. So, there should be no argument for a strong Centre or strong States. This has to be a strong country.

This has to be a welfare State for making this-, country vibrant and self-sufficient and it should remain united. That is the main consideration and on this philoso-

[Shri Hans Raj Bhardwaj] phy the Constitution has been framed. The Centre represents the country as a tfhole. You cannot say that it does not represent the entire country. When we go to polls for Lok Sabha, the country moves in a direction and decides that this is the direction the country must go and elect a particular party or a leader to be at the helm of affairs. Similarly, in the States when they elect them, the Governments are formed. In a democratic society and in a Parliamentary form of Government the ruling party and the opposition are a natural phenomenon. Nobody should criticise them. They should all welcome if there is a change. Changes have come and changes have been undone. Therefore, this is a very healthy sign and the very fact that in this country, after the Congress party ruled almost all the States in the country and in the Centre, some States are now under Opposition rule. It is a very healthy sign for democracy and it cannot be by any means a point for saying that there has been erosion of democracy in this country

Those who have been governing this country during all these years, must be given full respect and full appreciation for what they have done in strengthening trje democracy. Therefore, I must say that the arguments from the Opposition as well as the ruling party should always be directed to see how far we can see that this country is united and how far we can see that the Constitution is followed by every one because there is a rule of law. In this country nothing is happening arbitrarily. Everything is governed by rule of law. So, I am making these preliminary submissions only to set those aberrations right that were pointed out. Those are not correct apprehensions. So far as the Constituion of India is concerned, it has a very well defined scheme for the Union as well as for the States and as hon. Members pointed out, in the Seventh.Schedule, the lists are prescribed and various organs and various institutions have been defined in the Constitution and I need not go into it because it is not a full-fledged debate on a Constitutional amendment Bill being moved. It .is a Private Member's Bill where the spirit of the Bill has to be discussed. Sir, you will see that in a country like ours where there is a Parliamentary form of Government, there are different parties and different philosophies, economic and political, are permitted in the country. So differences of opinion are bound to be there and there have been differences of opinion between the same party Governments in the States or in the State and the Centre. This is not something new. They have been solved for the last forty years successfully. But now there seems to be a louder cry for more autonomy for States. It has no meaning unless you precisely point out, as Dr. Swamy has pointed out, the economic and other areas where autonomy should be there down to the grass-root level. The Prime Minister has also emphasised on devolution of power right through the panchayat system because the economic prosperity of the country has to come only by participation of the people down to the grass-root level. So this is where we should have the proper spirit. The hon. Member went to the extent of saying that we should discuss the Attorney-General. What for should we discuss the Attorney-General? The Attorney-General is an institution under the Constitution. His position is defined in the Constitution. You are not going to discuss it in the States. The Advocate-General cannot be discussed there because he is a 'aw officer of the State Govenment. Similarly placed are the Supreme Court Judges. You yourself have always emphasised on the independence of judiciary and you should appreciate that the function of judiciary is different from the function of executive and therefore, any discussion of the Supreme Court or High Court Judges in a forum like this would naturally be controversial. Those powers which are not executive powers and which are vested in judiciary have to be exercised according to the scheme of the constitution and their discussion will only bring more and

more controversies and more and more erosion of those institutions.

You have criticised Governors. Sometimes Governors do act in a manner that becomes controversial. Nobody denies this. But there are methods to correct them. 1 once again refer to the hon. Member who said that it is the person who occupies the chair that brings dignity to it. We should try to improve the political quality of our people and the political quality of the persons who are appointed to high offices. Then, this problem may not be there. But there also, these councils and other things will not be helpful because the role of Governor is defined in the Constitution.' If it does not suit some of the Opposition-ruled States, then they have to blame themselves because the Constitution does provide *toi* a Governor to be appointed in the State. This is a mechanism which has been permitted by the Constitution and individual decisions should not go against the institution. Similarly, if you kindly go into those matters like disputes about water etc., there are mechanisms to sort Sut those disputes.

[The Vice-chairman (Shri Anand Sharma) in the Chair]

We have to say mat whenever there is a controversy, whenever there is a problem, that has to be solved by mutual discussion between the States and the Centre. Why should there be any hesitation for discussion between a Minister of the Centre and a Minister of a State? I do not appreciate and subscribe to hon. Members who said that Ministers from the State are summoned to the Centre -and they have to come as petitioners. That is not the proper spirit we should have. When any hon. Minister *come** from a State, we meet like brothers. But we are not treated like brothers in your States. I am saying from my own example and you never admit that. This should be reciprocal. If you have respect for me, 1 must have much more respect for you and that is where persons count. Some people give so many sermons about their poutical stature, but they are pigmies otherwise. They live under the limelight of publicity by press because they have recourse to these people. That is the diffi culty. Then, sooner or later, they are exposed. You know what I mean. There fore, I say.....

SHRI SUBRAMANIAN SWAMY: Mr. Gurupadaswamy knows what you mean.

SHRI HANS RAJ BHARDWAJ: I have so much affection and respect for Mr. Gurupadaswamy that whenever I have a complaint, I always complain to him and I complain to him in karnataka when I am there. He listens to me very patiently and that gentleman is exposed now.

I am only submitting that the spirit of a healthy discussion between the States and the Centre or among the States themselr ves is a very healthy principle. There should be no conflict leading to any ugly situation. For that we must find out a mechanism because with more and more democracy coming to our poeple, more and more aspirations coming up with our people and with more and more success of democracy in India, the problems may crop up and we should be ready to face them. That is where we have to see whether an Inter-State Council or any other mechanism would be sufficient to meet the requirement.

I thought that Mr. Gurupadaswamy is aware that so far as Sarkaria Commission is concerned, it has given its report. I hope that this House has discussed that report and the views of the hon. Members of this House have been noted by the Government. A debate is likely tq come up, I think, in the other House also very soon. The views of that House are equally important and the Government would like to listen to the hon. Members from all parties and all other forums. The

[Shri .....Hans Raj Bhardwaj] views of the States have also come ia. Some of the States have still to give some more views. So, all these issues are to be discussed with an open mind in order to find out what can be the mechanism which can satisfy at least a majority or most of the poeple. We are anxious for a dialogue on the relations of trie States with the Centre and also relations bet ween the States themselves. These are the issues which need a discussion and there cannot be any particular point where we can stop discussing these issues. There should be discussion in various forums which are already in existence. There may be new forums. "It is prema ture for me to say what type of mechan ism will be evolved out of the Sarkaria Commission report, it is for the States and the Central Government to discusss at length across the table and come to some sort of a solution that is required. In that process, there should be no haste and there should be no question of pre stige. If you take it that we are here only to serve the people of India and that we are here only to strengthen the country and the people as a whole, then it is a different issue. But if you are particular about scoring a political point over another, then it is a different issue. If you think that an opposition government in the State must be directed against the Centre, then this is the third issue. These are the issues which are different from one another. I personally feel that Mr. Subramanian Swamy rightly said that it is not a federation like the United States where each State when it got un ited ..... *(Interruptions)* At least you should be proud that one of the hon. Members sitting in the opposition is being quoted by a Minister. Why should you be jealous of it? I have quoted Mr. Gurupadaswamy also extensively in my speech.

SHRI SUBRAMANIAN SWAMY: They want you to quote Mr. Hegde.

SHRI HANS RAJ BHARDWAJ: Mr. Hegde has been voted out by his own people. What can I do? I do not want to quote a person who is not a Member of this House. What I am submitting is that he has been a Minister himself and I was thinking that he must have expressed his views on the Centre State relations dur ing his tenure as a Union Minister. But I could not lay my hand on that. This issue has been debated rightly in the Rajman nar Committee and in other committees, in the Administrative Reforms Commis sion and in the Sarkaria Commission. So, lot of debate has gone on and many views have come across. Now, a decision has to be taken by the Government on this issue. Any decision taken now should be such that it should cover all the points which have been raised on the Governor. I personally see no objection that the Centra] Government should appoint a Governor in a State because the Con stitution provides it. But, as I said, there have been controversial decisions taken by Governors. So, they were the persons and those decisions affected the prestige of those people who gave wrong decision. There have been Govenors who will be remembered throughout in the annals of history. They will be remembered for long. You cannot say that every Gover nor has been bad or good. We should not attack the institution of Governor. We should insist on a high quality of the person occupying the office of Governor. That should be the real perspective in which the position of the Governor should be looked into. We are all Indians and no outsider is appointed as Governor. You appointed Governors when you were in power at the Centre. Nobody at that time said that this is not necessary and we should abolish it.

Therefore, all these arguments are there and I appreciate Mr. Reddy when he said — I have noted his point which he very rightly made in the course of his reply to Vikalji with regard to regional ism — that so long as a Government enjoys the support of the people who elect it, it is a very valid and very much a

constitutional Government and nobody can criticise it because it is duly elected. Whether it is regional party or whether it is a national party or whether it is some other party is a different question. But the question is, whether it is a region or this part of the country or that part, the whole country, the country as a whole, matters much more than a region. The country as a whole must survive as one, must flourish as one, and that is where the national perspective is much more important. Ours is a Union of States. We call India as a Union of States and when we say that, the tendency is not to divide India, but the tendency is to unite India and it is not to create a system where each unit will have an undue impact on the national character. The States are important and that is why there is devolution of powers down to the people which is a machanism for achieving economic prosperity and it is there right through up to the local self-government level. When we say local self-government, we must remember this and this subject has to be totally understood. The economic progress of a country cannot be there unless the States work very hard because the money goes to the States and if they do not use the money honestly and sicerely, then it will go waste and that is why ft is now felt that it should go right down to the panchayat level. So, devolution of power down to the people is a very healthy thing and it will strengthen the country and I must say that the States and the Centre both must work in harmony. Otherwise, this tendency to blame each other will expose the political system to criticism and nobody would like that the political people of this country should be brought to ridicule before the masses. So, we must not attack on that issue because the common objective of us all, the collective objective under the Constitution, whether it is the States or whether it is the Union or whether it is the local self-government units, for which we are all working is the achievement of socio-economic justice for the people and the socio-economic progress of the country, and that is the ultimate goal for which everyone is working. I do not think that one can insist that this is the only method by which one can achieve complete harmony and I do not think that it can be suggested by anybody. I do not think you can say that the method suggested by one individual member or one individual poutical party or by one individual government is the only method. It is a continuous process and the moment you find some problems, you must discuss. But sometimes it is not being done in that spirit because, you will appreciate, there is a tendency not to co-operate with the Centre and it is also felt to be derogatory to co-operate with the Centre. Some of the Chief Ministers do feel that they are much more than the Central Government and that tendency also is wrong. We must co-exist as one body where the limbs are different right from the toe to the head. This is our country and this is our Constitution and nobody, as was pointed out, can demand secession. Secession is not permitted under our scheme of things, under our Constitution and nobody should dream of it. It is simply not permitted. It is only the Union which is provided for in the Constitution and no secession and no State can ask for that type of autonomy as it is in the United States. There they have the dual citizenship and we do not have it. We have one single citizenship. You see, they were sovereign States when they came into being as the United States. You read the first speech which the founding-father made and you see on what principles they got united. That is why they are becoming very strong and they have become a very strong country. They are not fighting with each other and on national issues they are united. Similarly, we are also united on some issues. But, sometimes, when we think in political terms, we get confused and we say, "No. The Constitution is not working. Nothing is working properly and, therefore, we are attacking." That should not be there. We must share. Whenever there is a calamity, the Centre does go to the aid of the States.

[Shri Hans Raj Bhardwaj] Whenever there is some disturbance, the Centre does go to the aid of the States, because it is provided for in the Constitution. It is the duty of the Centre to help the States against internal disturbance and against external aggression. So, it is a very important duty which the Centre has been charged with.

SHRI MOTURU HANUMANTHA RAO (Andhra Pradesh) : This is also a suggestion. Inter-State Council is also provided in the Constitution. Why don't you accept that, which is already there in the Constitution?

SHRI HANS RAJ BHARDWAJ : Anybody has to accept what is provided in the Constitution. Nobody can say 'no' to it. But it is different from what he has said. You have not read what he has said. You-kindly read it and then speak to me. This is wholly different from what article 263 is. What I am submitting is that a power, a duty, has been cast on the President to decide on such matters. What I have submitted is that you have had a thorough debate on it under the auspices of the Sarkaria Commission. It is highly premature for me to say this will be the scope of the Sarkaria Commission's recommendations ~ what will be the decision of the Government. It essentially touches a subject...

SHRI MOTURU HANUMANTHA RAO : The Minister has...

THE VICE-CHAIRMAN (SHRI ANAND SHARMA): Has the Minister yielded?

SHRI HANS RAJ BHARDWAJ : No.

THE VICE-CHAIRMAN (SHRI \NAND SHARMA): The Minister has lot yielded.

SHRI HANS RAJ BHARDWAJ : I tiink if the convention is followed, then liis issue should not have been discussed, because the Sarkaria Commission Reoprt has been discussed. Any debate on tbis will be giving the view of the Government. At this stage this issue essentially touches the debate on the Sarkaria Commission. I submit that the hon. Member has raised certain issues. I have noted them down. The views of the Govemment will be known when the views are formulated in the shape of what proposals will be accepted, and at that time the hon. Member can still discuss what type of inter-State Council may be accepted, what may not be accepted. I personally feel that the Constitution is not amended like this. There has to be a different system for amending the Constitution. Private Members' Bills are brought to highlight a particular problem, and that has been taken cognizance. There are strains in the States and there are strains between the States. These issues are discussed. There are several forums. More forums can be given. All these things can come after the decisions of the Govemment on the Sarkaria Commission Report.

I have noted the suggestions. He has said nothing wrong, except a few points which I have pointed out, that they are not within the scope of the discussion. But the other points have been more or less thoroughly discussed in the Sarakaria Commission.

I, therefore, request the hon. Member to withdraw his Bill.

THE VICE-CHAIRMAN (SHRI ANAND SHARMA): Mr. Gurupadaswamy will now reply to the Debate.

SHRI M. S. GURUPADASWAMY. (Kamataka): Mr. Chairman, Sir, at the outset I have to thank all those Members who participated in the debate. Nine Members participated. They all, including the Minister, have expressed their views.

Before making a few remarks, I would say something about Dr. Subramanian Swamy. He is not here.

THE VICE-CHAIRMAN (SHRI ANAND SHARMA): Apparently he guessed that you are going to speak about him".

AN HON. MEMBER: He has disappeared from the House?

SHRI M.S. GURUPADASWAMY: I would have said something more. But this much I would say: However Dr. Subramanian Swamy tries to move away from me, he succeeds less and less.

Whatever may be his effort to distance himself from me, he can never succeed. Having said that, Mr. Vice-Chairman, I expected from my friend, Mr. Bhardwaj, a different type of reply or intervention, if I may say so. He indulged in various platitudes and sermons. I expected that he would advance solid grounds, solid reasons, for opposing my amendment. In his emotional, sentimental, speech he conveniently forgot that the Inter-State Council concept is not alien to our Constitutional set-up. It is a part of the Constitutional arrangement. It is an institutional expression for fulfilling certain eventualities which may arise as a result of working of the Constitution itself. The founding fathers were right in incorporating this mechanism into the Constitution. They went somewhat wrong only in anticipating that the President in his discretion would appoint such a high-level coordinating forum. This is a coordinating forum—I emphasise this—where discussion, debate, dialogue, interactions take place between the Centre and the States in respect of subjects, issues, matters, which tend to divide them or which tend to create misunderstandings between them. I said the other day all the instruments which were forged in the past like Zonal Councils, like the National Development Council, even the Planning Commission and some other commissions set up under this provision in respect of specific matters like health and local self-Government, could not succeed and would not succeed in harmonising the conflicting interests between the Union and the States, in maintaining the balance between the States and the Centre.

Ours is a dual polity. It is a Cooperative federalism though the Constitution gives a lot of powers to the Centre even to intervene in State matters^—executive and legislative matters. I do not want to go into all those Articles. There are enough powers given to the Centre to over-ride, to over-shadow and dominate and establish the paramountcy of the Centre over the States. What more do you require? In actual practice, both in the political and administrative and financial areas, the Centre has been intervening in the State's jurisdiction. If you go through the list dividing the powers between the Centre and the States, you will realise that there is over-centralisation of powers with the Centre. There are 93 subjects in the Central List, 67 subjects in the State List and 47 subjects in the Concurrent List. You can very well imagine, in the arrangement itself, there is a decisive bias, proclivity towards the Centre and its powers. And where is the question of secession or separation or threat to the Centre or the unity of the nation itself? No. It is impossible to disintegrate this country because preponderant sections of Indians stands by the unity and integrity of this country because they have learnt bitter lessons from the past. History is replete with instances where whenever divisions arose we lost independence. They are aware of this. Therefore, let us not harp on that theme. If that was so, then the Constitution-makers would not have provided this mechanism, this body. In the last 38 years of the working of the Constitution the areas of conflict have increased the tensions have increased, between the Centre and the States because of the conduct of the Central Government? And has it not led to misunderstandings?

[Shri M.S. Gurupadaswamy]

Should we go on indulging in this kind of recrimination without discussion in a forum? In what way the set-up of the Inter-State Council comes in the way of unity of India or the working of the Constitution or the working of the Government of India or the working of the Government of the States, I want to be told. And you have got zonal councils. They have not come in the way of the unit of India. We haye been having them. And you call the conferences of Chief Ministers for discussing various specific issues. They have not come in the way of the unity of India, or they have not eroded the powers of the Central Government either. What is important is this federal polity, dual polity, the consitutional arrangements which you have made should work smoothly, harmoniously. Somebody quoted the example of the United States. It is a real federal polity functioning there. I think my friends will know that in the USA, where federalism is functioning quite well, they have established inter-State commissions by an Act only to aviod conflicts and to evolve consensus in matters between the Centre and the States. In Australia, where there is also a federation functioning, they have a similar Act, under which they have established Inter-State commission, in the year 1912. There is a feeling, a justifiable feeling amongst the States that there is more centralisation of powers. We want decentralisation of power without amending the Constitution, functional decentralisation, administrative decetralisation, not constitutional decentralisation; I am not advocating that at this stage. Various instances have been mentioned here like the appointment of Governors, appointment of Judges, transfer of Governors, transfer of Judges, division of inome, the division of activities between the Centre and the States and, the all-India Services matters, so many matters are coming. My friend, Dr. Swamy was saying that the national Development Council is playing a role; a very very ineffective role and it is only called whenever it suits the Centre. There is no periodicity in its meetings. The Planning Commission is not a statutory body. It is created by an executive order of the Government. Therefore, the whole situation is nebulous fluid. With a view to make our federal polity strong and viable, the irritations or irritants which have come in the way of functioning of this federal polity have got to be removed and they can be removed only by a dialogue, a discussion and inter-action and by investigating the matter which divide the States from the Centre. And that requires a forum. The Inter-State Council, as I said earlier in my speech, is a high-level coordinating body; it is not divisive body. Therefore, I felt rather sorry that my friend, Mr. Bhardwaj for whom I have the greatest respect, has taken this debate — I do not say casually — rather not seriously. He should have left the debate as it is; he should have kept his mind open. Since Sarkaria Commission Report has to be debated and decisions of the Government have to be taken on various recommendations made by Sarkaria Commission, he could have said that this matter would be decided in good time. But, on the contrary, the whole tenor of his speech was one of negation. That is why I felt sorry, and I would like him to reconsider his decision.

SHRI HANS RAJ BHARDWAJ: May I submit? I think in a day or two this is being discussed in Lok Sabha. How can I give a premature...

SHRI M.S. GURUPADASWAMY: That is why I said I would request you to keep the whole thing open.

SHRI HANS RAJ BHARDWAJ: And you know on Private Member's Bill, you cannot take a decision. Lok Sabha has to debate it in a day or two; I have got my brief ready...

SHRI JAGESH DESAI (Maharashtra): He has an open mind.

SHRI M.S. GURUPADASWAMY: You did not commit yourself on that day: anyway, I only wish that you had kept this matter open for a decision. Mr. Jagesh Desai has come to your rescue that your mind is still open.

SHRI HANS RAJ BHARDWAJ: I assure you it is much more open than anybody else's.

SHRI M.S. GURUPADASWAMY: Finally, my amendment is very simple. I want to convert this article 263 and make it mandatory. It is not mandatory as it is. I want to say that because we have waited for 38 years for this article to operate; it has not operated; it is in disuse, so to say. Therefore, I have said in my amendment that the President "shall" appoint Inter-State Council immediately because there is an imperative necessity for such a body to ensure smooth and harmonious working of this dual polity of ours. Thank you.

THE VICE-CHAIRMAN (SHRI ANAND SHARMA): Shri Gurupadaswamy, are you withdrawing the Bill or I put it to vote?

SHRI M.S. GURUPADASWAMY: Put it to vote.

SHRI PAWAN KUMAR BANSAL (Punjab): This is a Constitutional amendment and 50 per cent of the people have to be present in House.

THE VICE-CHAIRMAN (SHRI ANAND SHARMA): We will go by voice vote.

SHRI M.S. GURUPADASWAMY: Yes, voice vote only; I do not demand a division.

THE VICE-CHAIRMAN (SHRl ANAND SHARMA): The question is:

> "That the Bill further to amend the Constitution of India, be taken into consideration."

The motion was negatived.

CONSTITUTION (AMENDMENT) BILL,1988 (TO AMEND THE TENTHSCHEDULE)

SHRI PAWAN KUMAR BANSAL (Punjab): Mr. Vice-Chairman, I beg to move:

> "That the Bill further to amend the Constitution of India, be taken into consideration."

Sir, to rid our body politic of the scourge of defections, one of the very first bold steps that the Government under Shri Rajiv Gandhi took was to enact the anti-defection law in the form of the Fifty-second Amendment to the Constitution. This question of defections had defied solution and no corrective measures could be taken ever since the Fourth General Elections held in 1967 when the phenomenon of defections began to eat at the very vitals of our democracy.

As the time passed, the problem became increasingly acute. Following the Fourth General Elections, if the figures I have are correct, as many as 500 elected Members in different Houses crossed the floor and as many as 118 of them changed their loyalty from one party to another to become Ministers or Ministers of State. Elected Members crossed the floor with no compunction whatsoever for personal gains. When people with no similarity of views or common approach to poutical issues started deserting their parties motivated only by narrow political considerations, the obvious casualty was democracy itself. We faced a situation and found ourselves in a scenario where a